IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.1124/2004.

Date of Decision June 22nd 2007

Raj Paul Rana …Petitioner.

Versus:

National Hydroelectric Power Corp. and another. Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr.Shrawan Dogra, Advocate with Mr.Surinder Sharma, Advocate.

For Respondents. Mr.Neeraj Maniktala, Advocate.

Sanjay Karol, J .

Petitioner has filed the present writ petition with the following prayers:

" (i) That the impugned Annexure-PQ, dated 8th September, 2004 may be quashed and set aside;

(ii) That the respondents may be directed to consider the petitioner for promotion to the post of Private Secretary Gr-II w.e.f. March, 1994 with all consequential benefits;

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

(iii) That the respondent Corporation may be directed to consider the case of the petitioner for promotion to the post of Private Secretary (E-I) w.e.f. 1.7.2002 with all consequential benefits like arrears of salary and to pay arrears thereof along with interest @ 18% per annum, seniority etc;

(iv) That the respondent Corporation may be directed to produce the entire record pertaining to the case of the petitioner before this Hon'ble Court for its kind perusal;

(v) That any other relief as may be deemed just and proper keeping in view the facts and circumstances of the case may also be granted in favour of the petitioner."

Petitioner is employed with the respondent. On 5th October, 1984, petitioner was appointed to the post of Stenographer Grade-II and with subsequent promotion on 30th January, 1998, he stood promoted as Stenographer (Special Grade) (W-7) in the pay scale of Rs.3200-5160 w.e.f. 1.7.1997. On 1.7.2002, petitioner was further promoted to S-III Grade w.e.f. 1.7.2002.

The grievance of the petitioner, however, is that he was to be promoted as Stenographer Grade-I w.e.f. 1.1.1990 and not w.e.f. 10.3.1990 and further that he was not promoted as Private Secretary (E-I) in the year as on 30th January, 1998 as also 1st July, 2002.

According to him as of 7th October, 1997, the respondents had come out with new Promotion Policy and Rules

for NHPC Executives and in terms of Clause 6.1 all the Executives of the Corporation were grouped in four broad cadres, namely Technical, Finance & Accounts Personnel & Administration and others. The minimum qualifying period for promotion from Grade E-I to Grade E-II was specified as four years for diploma holders Graduate. However, relaxation was given in terms of the Policy and relevant Clauses 8.1, 8.2, 8.3 and 8.4 for the sake of ready reference are reproduced as under:

> "8.1 In order to encourage employees to acquire higher educational qualifications leading to improved performance, due weightage has been provided in the qualifying period for promotion.
>
> 8.2. An officer who is a Diploma Holder in Engineering in Technical Cadre shall be considered for promotion beyond the post of Manager only after he acquires qualification equivalent to Degree in Engineering. Similarly, an officer who is Graduate in F&A and P&A Cadre shall be considered for promotion beyond the post of Manager only after he acquires professional qualifications as enumerated in Annexure to this policy.
>
> 8.3 For promotion t Executive post (E-I) level from the Supervisory Cadre in F&A and P&A cadres, the minimum qualification shall be graduate.
>
> 8.4 Since linkage of promotion to educational qualification has been introduced in this policy, it has become necessary to provide time to the existing employees to acquire the required educational

qualification. Those employees who do not possess the requisite qualification, will be considered for the promotion to the next higher grade on their becoming eligible for promotion, but they will become eligible for further promotion only after acquiring of the requisite qualifications"

Learned counsel for the petitioner has restricted his grievance to contend that the respondents have miserably failed in applying and giving benefit of Clauses 8.3 and 8.4 of the Policy. According to him at the time of his promotion as of 1st July, 2002 he ought to have been promoted to Grade S-3 instead of grade-E-1.

He has relied upon the averments made in the petition to contend that the petitioner has been discriminated in uniformly applying the aforesaid clauses of the Policy. In the cases of other persons and one Smt.Pushpa Rani, working as Private Secretary, Grade-II, in terms of order dated 1.1.2002 was promoted to E-1 with a condition that her next promotion would be considered only after attaining the qualification i.e. Graduation from recognized University in terms of Clause 8.4 of the Promotion Policy for Executives. He has further referred to the case of one Shri Des Raj to contend that not only the said employee has been exempted from the qualification but also has been granted promotion twice in spite of having not acquired the qualification of Graduation. There is no reply or rebuttal to the same.

Admittedly, the petitioner has now acquired the qualification of Graduation and stands promoted to the post of Private Secretary E-I. In the facts and circumstances of the case, I am of the considered view that the interest of justice would be met

if the respondents are directed to decide the case of the petitioner afresh for promotion to the post of Private Secretary, E-I w.e.f. 1.7.2002.The respondents are therefore directed to decide the same keeping in view the averments made in the present petition within a period of three months from today by passing a speaking order and after affording adequate opportunity to the petitioner. During the course of hearing, Mr. Shrawan Dogra, learned counsel appearing for the petitioner has seriously not pressed for the other claims pertaining to previous period.

No other point was pressed or urged by the learned counsel for the parties.

In view of the aforesaid reasons, the present writ petition is accordingly disposed of.

(Sanjay Karol),
Judge.

June 22nd ,2007.(R)